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COMMISSION ON HUMAN RIGHTS
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Open-ended inter-sessional ad hoc working group
on a permanent forum for indigenous people
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Item 4 of the provisional agenda

Proposals for the possible establishment of a permanent forum for indigenous people

Information from indigenous organizations

In its resolution 1998/20 of 9 April 1998, the Commission on Human Rights decided to establish an open-ended inter-sessional ad hoc working group to elaborate and consider further proposals for the possible establishment of a permanent forum for indigenous people within the United Nations system. The Commission requested the ad hoc working group to take into account in its work the comments received from indigenous organizations. The present document contains information received from indigenous organizations as of 6 January 1999. Any further information from indigenous organizations will be made available in addenda to the present document.

LEGAL COMMITTEE FOR THE SELF-DEVELOPMENT
OF PEOPLES OF ANDEAN ORIGIN (CAPAJ)

[6 January 1999]
[Original: Spanish]

1. Since 1980 the Working Group on Indigenous Populations has been drawing attention to the need to establish a permanent forum for indigenous people in the United Nations system, and in 1993 the World Conference on Human Rights included the establishment of a forum of this nature in the Vienna Declaration and Programme of Action. Accordingly, in 1995 and 1997, two workshops were held, one in Copenhagen and the other in Santiago de Chile; two indigenous conferences were also organized on the subject in respect of the Kuna and Mapuche peoples, at which the feasibility of establishing a permanent forum was thoroughly discussed.

2. In 1996, the Secretary-General reached the conclusion that there was no decision-making body in the United Nations system responsible for examining allegations by indigenous peoples of violations of their fundamental rights. Nor does the United Nations have any regulatory machinery that takes action on specific indigenous matters.

3. Our organization deeply regrets the absence of a permanent forum because, since 1995, it has been submitting to the High Commissioner for Human Rights complaints by the Aymara people living in Peru, Chile and Bolivia concerning the spoliation of their territorial waters and, consequently, the danger of extinction; so far, however, no progress has been made in preventing such action on account of the absence of a suitable forum which could solve this problem in a competent fashion.

1. Mandate

4. We are of the opinion that the workshops and conferences held on the subject of the permanent forum reveal a consensus in favour of endowing the permanent forum with competence in respect not only of the cultural, economic, social and political rights of the indigenous peoples but also educational and health matters affecting the indigenous peoples, with a view to promoting better services corresponding to their way of life. The forum should seek to foster the self-development of the indigenous peoples in a healthy environment on their own territory.

5. Our organization considers that this forum should enjoy decision-making powers and be authorized to take any action required to solve the various problems faced by the indigenous peoples in the above-mentioned spheres, as well as to prevent genocide and cultural ethnocide, and thereby enable the indigenous peoples fully to enjoy and exercise their fundamental rights and freedoms.

2. Level

6. The permanent forum could be established either at the General Assembly or Economic and Social Council level. Article 68 of the United Nations Charter authorizes the Council to set up any commissions that may be required

for the performance of its functions. In point of fact, the Economic and Social Council has four types of subsidiary organs, namely, the functional commissions, standing committees, regional commissions and expert bodies. The General Assembly, for its part, has four kinds of subsidiary bodies: the Main Committees, the General Committee, the Credentials Committee and Permanent Committees. It would be feasible to establish the permanent forum at the same level as the bodies mentioned above.

3. Composition and membership

7. The proposals submitted reveal a consensus in favour of quadripartite membership of the permanent forum, in other words, it should comprise representatives of Governments, delegates of indigenous peoples, experts and specialized agencies, all with the right to speak and vote, and each one represented on an equal footing by six representatives. The composition of the permanent forum should be such as to ensure that it is a competent and efficient body which has sufficient authority to protect and promote the rights of the indigenous peoples and with which the indigenous peoples are associated intimately and not simply as observers.

4. The present context

8. The context in which the permanent forum for indigenous people is being established in the United Nations should be taken into account. Ongoing discussions of the draft declaration on the rights of indigenous peoples, the study of treaties, the study on the patrimony of the indigenous people and the study of indigenous land rights all constitute a reference framework for the permanent forum.

9. The fundamental rights of the indigenous people which are to be embodied in the declaration will require adequate, fair and genuine implementation; the same is true of any new elements that may emerge from the studies mentioned above.

10. The various problems faced at the present time by indigenous peoples vary to such an extent that the establishment of the permanent forum is an urgent necessity, since it will have to evolve in the same way as the United Nations itself.

COORDINATING BODY FOR INDIGENOUS ORGANIZATIONS OF THE AMAZONIAN BASIN (COICA)

[4 January 1999]
[Original: Spanish]

1. COICA is a regional organization that represents about 400 Amazonian indigenous peoples comprising approximately 1.5 million persons living in Bolivia, Brazil, Columbia, Ecuador, Guyana, French Guyana, Peru, Suriname and Venezuela. We wish to express our support for resolution 1998/20 of 9 April 1998, by which the Commission on Human Rights decided to set up an open-ended inter-sessional ad hoc working group to consider proposals for the possible establishment of a permanent forum for indigenous people in the United Nations system.

2. First, we would invite this working group to take into account the resolutions and declarations of the United Nations, as well as those submitted by indigenous people in connection with the establishment of the permanent forum:

(a) The Vienna Declaration and Programme of Action, adopted by the World Conference on Human Rights, emphasizing the need for a permanent forum for indigenous people in the United Nations system;

(b) General Assembly resolution 50/157, which states that one of the important objectives of the Decade of the World's Indigenous People is the establishment of a permanent forum for indigenous people within the United Nations;

(c) The Secretary-General's review of the existing mechanisms, procedures and programmes within the United Nations concerning indigenous people, which concludes by stating that there are virtually no mechanisms in the United Nations which give the indigenous peoples an opportunity to participate in decisions that may influence their lives (A/51/493);

(d) The report of the first workshop on the establishment of a permanent forum for indigenous people in the United Nations system, held pursuant to Commission resolution 1995/30 in Copenhagen from 26 to 28 June 1995 (E/CN.4/Sub.2/AC.4/1995/7);

(e) The Declaration of the First International Indigenous Conference on a Permanent Forum for Indigenous People within the United Nations system, Temuco, Chile, 6 to 9 May 1997;

(f) The report of the second workshop on a permanent forum for indigenous people within the United Nations system held in accordance with Commission on Human Rights resolution 1997/30 at Santiago de Chile, from 30 June to 2 July 1997 (E/CN.4/1998/11 and Add.1 to 3);

(g) The Declaration of the Second International Indigenous Conference on a Permanent Forum for Indigenous People held at Ukupseni, Kuna Yala, Panama from 4 to 6 March 1998 (E/CN.4/1998/11/Add.3);

(h) The Indore Declaration of the First Asian Indigenous Peoples Workshop on a Permanent Forum for Indigenous Peoples in the United Nations, held at Indore, Madhya Pradesh, India, from 23 to 25 September 1998.

3. Secondly, we would emphasize that it is important that the United Nations system should provide adequate financial resources that would permit indigenous participation in the working group.

THE ASSOCIATION OF NORFOLK ISLANDERS

[4 January 1999]
[Original: English]

United Nations and indigenous peoples

1. The need for a permanent forum within the United Nations has been identified from the limited scope of United Nations activities within relevant programmes and policies. To date, there also exist a lack of recognition of indigenous people and a lack of national and international representation, and a failure to address issues relevant to indigenous peoples in the areas of human rights, land rights, property rights and the right to self-determination.

Membership and participation

2. Membership of the permanent forum could be broken down into member and observer status. It is necessary to ensure that this permanent forum avoids duplication of the activities of the Working Group on Indigenous Populations. Each should function distinctly and collaborate in mutual objectives.

3. A permanent forum of 34 members would allow equal membership of 12 governmental and 12 indigenous representatives, 5 members from specialized agencies, inter alia, United Nations Economic, Social and Cultural Organization, World Health Organization, World Intellectual Property Organization and United Nations Children's Fund, and a representative of the International Labour Organization. The rest should be experts on indigenous affairs representing each region of the world.

4. It is crucial to the success of the forum for the status quo to remain with regard to a definition of indigenous people. While a definition on the national level may be a necessity for some Governments to promulgate rights and laws, to apply definitions on an international level may serve to exclude certain indigenous people and lead to a loss of credibility of a permanent forum. The Martínez Cobo report, the Special Rapporteur of the Working Group on Indigenous Populations, the ILO and the World Bank have a broad definition that encompasses the diversity of indigenous people worldwide.

Mandate and terms of reference

5. In accordance with the Charter of the United Nations, the goal of the permanent forum should be to promote peace, develop friendly relations and promote understanding among peoples

6. The permanent forum should be established as a subsidiary of the Economic and Social Council (ECOSOC) and should be developed with the full range of operational activities covered by the ECOSOC mandate which are of concern to indigenous people.

7. The suggested mandate and functions of Mrs. Erica-Irene Daes, Chairperson-Rapporteur of the Working Group (see E/CN.4/1998/11/Add.2) would produce an effective base to create credibility, provide coordination and facilitate communication between Governments and indigenous peoples.

8. The Association of Norfolk Islanders notes and appreciates the efforts and progress made at the Copenhagen and Santiago workshops.